

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
SEATTLE DIVISION**

JOSEPH ANDREW HYLKEMA, a single man, <div style="text-align: right;">Plaintiff</div> v. GC SERVICES LIMITED PARTNERSHIP of Delaware and JANE DOE McKEE, jointly and severally, <div style="text-align: right;">Defendants</div>	No. COMPLAINT
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COMES NOW the Plaintiff who, for causes of action set forth below, hereby sues defendants above-named (collectively referred to as "Defendant" herein) and for his complaint alleges the following:

1. NATURE OF ACTION

1.1. This is an action for damages for violations of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692 et seq. Plaintiff brings this action in the capacity of a private attorney general to impose strict liability upon all defendants and each of them individually for their violations of the FDCPA.

2. JURISDICTION AND VENUE

2.1. Jurisdiction arises under 28 U.S.C. §§ 1331, 1337(a), and 15 U.S.C. § 1692k(d). Venue is proper in this Court as Defendant transacts business here and the conduct complained of occurred here.

3. PARTIES AND BACKGROUND

3.1. Plaintiff is a *sui juris* adult who has been the subject of Defendant's debt collection activities that took place within this District and has been damaged thereby.

3.2. Defendant GC SERVICES LIMITED PARTNERSHIP's offices and principal place of business are located at 6330 Gulfton Drive, Houston, TX 77081. Upon information and belief, the conduct complained of herein originated from GC's branch office located at 4777 Hilton Corporate Drive, Columbus, OH 43232.

3.3. Defendant GC is authorized to do business in the state of Washington through its registered agent CT Corporation System located at 206 – 1801 West Bay Drive NW, Olympia, WA 98502.

3.4. Defendant GC is the assignee of Plaintiff's alleged obligation to pay money to non-party U.S. Department of Education (the "Alleged Debt"). The Alleged Debt arose out of transactions primarily for personal, family or household purposes.

3.5. Defendant GC's principal business purpose is the collection of debts. GC regularly attempts to collect debts asserted to be

1 owed or due another using the telephone, mails, and other
2 instrumentalities of interstate commerce and did so attempt to
3 collect the Alleged Debt from Plaintiff.

4 3.6. Defendant JANE DOE McKEE, sued herein in her personal
5 capacity, is a *sui juris* adult and at all times relevant herein
6 was an employee of defendant GC.

7 3.7. Upon information and belief, the name used by Defendant
8 McKEE is not her true name but is a pseudonym (in industry
9 parlance, a "desk name") used while attempting to collect debts.
10 Plaintiff therefore does not definitively know the true identity
11 of Defendant McKEE at this time and she is therefore sued herein
12 by such fictitious name. Plaintiff will ascertain Defendant
13 McKEE's true identity and will amend this Complaint to reflect
14 the same.

15 3.8. Defendant McKEE was hired, trained, and supervised using
16 GC's methods, materials, and personnel. All of Defendant
17 McKEE's conduct complained of herein was done with GC's full
18 knowledge, consent, and support; was within the course and scope
19 of her employment with GC; and was done in furtherance of GC's
20 business.

21 4. STATEMENT OF FACTS

22 4.1. Defendant has attempted to collect the Alleged Debt through
23 a campaign of phone calls and voice mail messages.
24

1 4.2. On or about December 22, 2009 at approximately 3:26 P.M.
2 Defendant called Plaintiff and left a message on Plaintiff's
3 voice mail as follows:

4 This message is for Joseph Hylkema, Joseph, this is Miss McKee
5 I need a return call at 877-359-5523. Thank you.

6 4.3. Defendant did not provide any meaningful disclosure of the
7 caller's identity and did not disclose that it was a debt
8 collector when it called Plaintiff.

9 4.4. Defendant's conduct herein was persistent, deliberate, and
10 in bad faith.

11 4.5. As a direct and proximate result of Defendant's conduct
12 herein, Plaintiff has suffered damages.

13 **5. FIRST CAUSE OF ACTION – VIOLATION OF FDCA**

14 **COUNT ONE – VIOLATION OF 15 U.S.C. § 1692d(6)**

15 5.1. Defendant has placed telephone calls to Plaintiff without
16 meaningful disclosure of the caller's identity as required.
17 *See, inter alia, Hosseinzadeh v. M.R.S. Associates, Inc.*, 387
18 F.Supp.2d 1104, 1116 (C.D.Cal. 2005).

19 **COUNT TWO – VIOLATION OF 15 U.S.C. § 1692e(10)**

20 5.2. Defendant has attempted to collect the Alleged Debt by
21 false, misleading and deceptive means by failing to disclose
22 that it was a debt collector in its telephone messages and by
23 placement of telephone calls to Plaintiff without meaningful
24 disclosure of the caller's identity.

COUNT THREE – VIOLATION OF 15 U.S.C. § 1692e(11)

5.3. Defendant has failed to disclose that its phone calls were from a debt collector as required. *See, inter alia, Foti v. NCO Fin. Sys., Inc.*, 424 F. Supp. 2d 643, 669 (S.D.N.Y. 2006).

6. NO BONA FIDE ERROR DEFENSE

6.1. To the extent that any violations of the FDCPA complained of herein were not intentional, Defendant failed to maintain procedures reasonably adapted to avoid such errors. Further, any such errors were errors of law that are not excused by the *bona fide* error defense. *See Baker v. GC Services, Inc.*, 677 F.2d 775, 779 (9th Cir. 1982). Thus, the 15 U.S.C. § 1692k(d) *bona fide* error defense does not apply.

7. PRAYER FOR RELIEF

7.1. WHEREFORE, Plaintiff respectfully prays the Court enter judgment against Defendants, and each of them jointly and severally, as follows:

7.1.1. For money damages, including actual damages and the maximum statutory damages permitted under the FDCPA, and

7.1.2. For costs and fees of the suit, including reasonable attorney fees in the event that Plaintiff instructs counsel herein or to enforce any judgment entered herein in this or any foreign jurisdiction, and

1 7.1.3. For such other and further relief as the Court may deem
2 just, proper and equitable.

3 DATED: February 9, 2010

4 S/ Joseph A. Hylkema
JOSEPH ANDREW HYLKEMA
5 WSBA: N/A
Plaintiff pro se
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